

**CHAPTER 141: CONFORMITY OF GENERAL FEDERAL ACTIONS**

**SUMMARY:** This regulation implements section 176(c)(4)(C) of the Clean Air Act, 42 U.S.C. 7401 et seq., and its regulations 40 CFR Part 51, Subpart W, which requires federal actions to conform to the applicable Federal or State Implementation Plan (SIP). Conformity determinations for federal actions ensure that the purpose and intent of the State Implementation Plan are met.

1. Definition

State Air Agency and State Agency Primarily Responsible for the Applicable SIP. For purposes of this Chapter, the terms "State air quality agency" and "State agency primarily responsible for the applicable SIP" shall both refer to the Maine Department of Environmental Protection, Bureau of Air Quality. Furthermore, mandated consultation with the State shall be through the Maine Department of Environmental Protection, Bureau of Air Quality.

2. Conformity to State and Federal Implementation Plans. For purposes of this Chapter, the following portions of 40 CFR Part 51, Subpart W "Determining Conformity of General Federal Actions to State or Federal Implementation Plans" as published on November 30, 1993, in the Federal Register, Vol. 58, No. 228, pages 63247 through 63253 are incorporated by reference herein:

- 40 CFR § 51.850 (Prohibition)
- 40 CFR § 51.852 (Definitions)
- 40 CFR § 51.853 (Applicability)
- 40 CFR § 51.854 (Conformity Analysis)
- 40 CFR § 51.855 (Reporting requirements)
- 40 CFR § 51.856 (Public participation)
- 40 CFR § 51.857 (Frequency of Conformity determinations)
- 40 CFR § 51.858 (Criteria for determining conformity of general Federal actions)
- 40 CFR § 51.859 (Procedures for conformity determinations of general Federal actions)
- 40 CFR § 51.860 (Mitigation of air quality impacts)

AUTHORITY: 38 M.R.S.A., Sections 585, 585-A

EFFECTIVE DATE: September 28, 1996



## **BASIS STATEMENT**

Section 176(c)(4)(C) of the Clean Air Act, as amended (42 U.S.C. 7401 et. seq.), requires states to submit to EPA revisions to their implementation plans establishing general conformity criteria and procedures. EPA promulgated a final rule making on November 30, 1993 consisting of 40 CFR Part 93 Subpart B “Determining Conformity of General Federal Actions to State or Federal Implementation Plans” which applied to Federal agencies immediately; and 40 CFR Part 51 Subpart W “Determining Conformity of General Federal Actions to State or Federal Implementation Plans” which established requirements for States in submitting SIPs. Since the Department does not propose a standard more stringent than that required by EPA, and a less stringent rule would be disallowed by EPA, the EPA rule 40 CFR Part 51 Subpart W, Sections 51.850 and 51.852 through 51.860, is incorporated by reference as the Maine General Conformity rule.

The purpose of the General conformity Rule is to ensure that all Federal actions (except for Federal highway and transit actions regulated under Transportation Conformity), conform to the appropriate SIP developed pursuant to Title I, Section 110 and Part D of the CAA. Conformity to a SIP is defined in the CAA, as meaning conformity to a SIP’s aim to eliminate or reduce the severity and number of violations of the National Ambient Air Quality Standards (NAAQSs) and to achieve expeditious attainment of such standards, and that such activities will not:

1. Cause or contribute to any new violation of any standard in any area;
2. Interfere with provisions in the applicable SIP for maintenance of any standard;
3. Increase the frequency or severity of any existing violation of any standard in any area; or
4. Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA ties conformity to attainment and maintenance of the NAAQS. conformity therefore applies only in areas that are Non-attainment or Maintenance with respect to any of the Criteria Pollutants under the CAA: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub>), and sulfur dioxide (SO<sub>2</sub>). The rule covers direct and indirect emissions of Criteria Pollutants or their precursors that are reasonably foreseeable and caused by a Federal action.